THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 11526 of 2005

Date: 29.11.2006

Between:

D. Satyanarayana.

.... PETITIONER

AND

The Singareni Collieries Company Limited, Kothagudem, Khammam District, rep. by its Chairman and Managing Director and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 11526 of 2005

Order:

Questioning the reversion order, dated 07.05.2005, passed by the 2nd respondent, reverting the petitioner from the post of Overman, Grade-B to the post of Mining Sirdar Trainee, Grade-D, the present writ petition is filed.

The petitioner, while working as Overman, Grade-B in the respondent-Company, was issued a charge sheet dated 15.11.2004 alleging that despite knowing the adverse condition at 35 Dip/25-1/2 LS, he failed to perform his duties as specified under Regulation 43 (1) (a), (d), (e), 43 (6) and Regulation 110 (b), (d) of the Coal Mines Regulations 1957 on 06.11.2004 in the third shift and did not reach the withdrawing phase, till the roof fell, which resulted in two fatals, two serious and five minor injuries. The petitioner submitted his explanation denying the said charges. Having not satisfied with the same, an enquiry was conducted and based on the enquiry report submitted by the Enquiry Officer, a show cause notice dated 29.11.2004 was issued to the petitioner and after considering his objections/remarks, the impugned order was passed reverting the petitioner from the post of Overman, Grade-B to the post of Mining Sirdar Trainee, Grade-D. Questioning the said reversion order, the petitioner filed the present writ petition.

On 24.05.2005, the learned Standing Counsel for the respondents-Company took notice and sought time for obtaining necessary instructions. Thereafter, the matter underwent several adjournments. On 08.11.2006, when the matter came up for hearing, Sri K. Vasudeva Reddy, learned

counsel appearing for the petitioner submitted that he had given up the vakalat and he is not appearing for the petitioner. Then, this Court directed to list the matter by printing the name of the petitioner in the cause list. As there was no representation for the petitioner on 22.11.2006 despite printing his name, again the matter was directed to be listed today by printing the name of the petitioner in the cause list. In spite of that, none appeared for the petitioner nor is there any representation made on his behalf. In the circumstances, this Court has no other option except to decide the matter based on the material available on record.

The main grounds urged by the petitioner in the writ petition are that he is not at all negligent and not responsible for the alleged accident, and that the Enquiry Officer has not followed the prescribed procedure and no opportunity was given to him to cross-examine the witnesses. It is further urged that even though some of the witnesses deposed in English, the Enquiry Officer did not explain the same to him in Telugu language. The respondents-Company filed a detailed counter affidavit and produced the entire material relating to the enquiry.

Heard the learned Standing Counsel for the respondents-Company and perused the material on record.

The petitioner was charge sheeted on the ground that despite knowing the adverse condition at 35 Dip/25-1/2 LS, he failed to perform his duties as specified under Regulation 43 (1) (a), (d), (e), 43 (6) and Regulation 110 (b), (d) of the Coal Mines Regulations 1957 on 06.11.2004 in the third shift and did not reach the withdrawing phase, till the roof fell, which resulted in two fatals, two serious and five minor injuries. The petitioner submitted his explanation to the said charge sheet on 20.11.2004, which reads thus:

> "I, D. Satyanarayana, working as Overman at RK.5 section of RK.5 incline wish to bring the following few lines to your kind notice and consideration please.
>
> With reference to above charge sheet it is to submit that I admit the charges levelled against me.

However, keeping in view of my (5 years service as Overman) 14 years service rendered to the Company I wish to request the Management to take into consideration of the following.

On 06.11.2004 in III shift I was detailed for RS-3 Panel/2 Seam District, with the following workings. Viz., 1) Dip slice No.25/26 1/2LS,2) Dip slice No.25/26 LS, 3) 24 ½ LS/32 dip split, which is near for connection i.e., within 3 mtrs., 4) withdrawal of supports at 25 ½ LS/23 A out bye rib 5) With drawal of supports at 25 LS/23A out bye rib and 6) 23 ½ LN/36 Dip. Apart from the normal duties of distribution of mining staff and issuing of indent slips for explosive consisters etc.

Sri P. Jayarami Reddy, Overman given charge of roof condition as well as increase of convergence. He told that there is dull roof along rib, jump in convergence of 3 mm in II shift at 35 D/25 ½ LS and the total convergence was 11 mm.

Sri B. Daniel, Under manager II shift also given instructions to carry out withdrawing of supports by taking additional precautions as there was dull roof along the rib, jump in convergence of 3 mm, in II shift at 35 D/25 ½ LS and the total convergence was 11 mm. I had expressed my inability to arrange withdrawal of supports in two places as non-availability of Mining Staff in III shift. But Sri B. Daniel, Under Manager insisted me to arrange, as the following day is holiday.

Re-distribution of work persons from 3 seam to RS3 panel/2 seal due to non availability of mining staff caused delay in going early to the district.

Later I had given clear instructions to Sri Dara Rajaiah, Mining Sirdar who was deputed to supervise the withdrawal of supports at 35 Dip/25 ½ LS/23A out bye rib not to engage any work until my inspection of that face and observing the condition there.

On the way to the district at 18L junction/32 dip, the junction trammer told me that 32 R/14 L hauler is not running due to electrical report. Then I had called
Sri Surender, electrician and instructed him to rectify the report immediately and I moved to the district.

Unfortunately the roof fall has taken place at 35D/25 1/2LS/23A out bye rib involving two fatals, two serious and five minor injuries before my reaching to the site of accident.

The supports in that face are more than the supports required as per SSR framed and approved. As per previous experience in this panel convergence is not high and this accident had occurred due to unavoidable conditions.

Considering the above facts I request the management to kindly look into the matter sympathetically."

Thereafter, an enquiry was conducted, and the Enquiry Officer, who conducted the enquiry, submitted his report stating that the charges levelled against the petitioner are proved. Based on that, a show cause notice dated 29.11.2004, along with copy of enquiry report, was issued to the petitioner calling upon him to submit his objections/explanation against the findings of the Enquiry Officer. The petitioner submitted his reply to the said show cause notice on 06.12.2004, wherein he stated thus.

> "I, D. Satyanarayana wish to bring the following few lines to your kind notice please.
>
> I had received the above mentioned show cause notice and noted the contents. No more representation is being produced by me now and accept the same.
>
> This is for your information please."

After taking into consideration the over all evidence and material and the enquiry report, the respondents-Company has passed the impugned order reverting the petitioner to lower grade, from the post of Overman, Grade B to the post of Mining Sirdar Trainee,
Grade-D.

A perusal of the entire record does not indicate that there is any procedural irregularity in the conduct of the enquiry. At every stage of the enquiry, reasonable opportunity was given to the petitioner, and in fact, at no point of time, the petitioner has raised any objection with regard to conduct of enquiry by the respondents-Company. Apart from that, in his explanation dated 15.11.2004 to the charge sheet, the petitioner has clearly admitted the charges levelled against him, and later he also accepted the enquiry report, by his reply dated 06.12.2004. That being his case, he now cannot be allowed to contend that there is procedural irregularity in the conduct of enquiry and the enquiry officer has not followed the prescribed procedure and no opportunity was given to him. The contention now raised by the petitioner is only an after thought. In that view of the matter, no exception can be taken

to the action taken by the respondent-Company in reverting the petitioner to lower grade post, and more so when the charges levelled against the petitioner are proved and when he failed to prove any irregularity in the conduct of enquiry.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

_____

N.V. RAMANA, J.

Date: 29.11.2006
NSR/GRR